

## RULE 26

### DISCOVERY

#### (a) Filing of Discovery

Unless otherwise ordered by the Court, depositions upon oral examination and interrogatories, requests for documents, requests for admissions, and answers and responses thereto and disclosures made under Fed. R. Civ. P. 26(a)(2)-(3) and pursuant to scheduling orders issued by the Court, shall be served upon other parties but shall not be filed with the Court, except as required by subsection (c) of this rule. The party that has served notice of a deposition or has served discovery papers shall be responsible for preserving and for insuring the integrity of original transcripts and discovery papers for use by the Court.

#### (b) Discovery Disputes

The judicial officer shall not consider any discovery motion that is not accompanied by a certification that the moving party has made a reasonable and good-faith effort to reach an agreement with opposing counsel on the matters set forth in the motion. An attempt to confer will not suffice.

Any dispute not so resolved shall be presented to the judicial officer. In cases where the discovery deadline is about to expire or if the dispute arises during the taking of a deposition, the parties may arrange for and initiate a telephone conference call to the chambers of the judicial officer presiding over the case. The parties may attempt resolution of the issues at hand, if possible or the setting of a hearing to that effect. The request for a hearing with a judicial officer carries with it a professional representation by the lawyer, or an official representation by a *pro se* non-lawyer litigant, that a conference has taken place and that he or she has made a good faith effort to resolve the dispute.

When so instructed by the judicial officer, the lawyers or *pro se* litigants shall supply the judicial officer with the particular discovery materials (such as objectionable answers to interrogatories) that are needed to understand the dispute.

If the judicial officer determines that other evidence, data or supporting memoranda are needed to satisfactorily resolve the discovery dispute, such information shall be filed in conformity with Rules 5.1 and 7.1. Such motions shall: (1) quote in full each interrogatory, question at deposition, request for admission or request for production to which the motion is addressed, or otherwise identify specifically and succinctly the discovery to which objection is taken or from which a protective order is sought; and (2) address the response or objection and grounds therefor, if any, as stated by the opposing party.

Unless otherwise ordered by the Court, the complete transcripts or discovery papers need not be filed with the Court pursuant to subsection (c) of this rule unless the motion cannot be fairly decided without reference to the complete original.

**(c) Use of Depositions and Discovery Material by the Court**

If depositions, interrogatories, requests or answers or responses thereto, or any other discovery material are to be used at trial, other than for purposes of impeachment or rebuttal, the complete original of the transcript or the discovery material to be used shall be filed with the Clerk seven (7) days prior to trial. If the discovery transcript or material is not originally prepared or presented in the English language, same must be accompanied by an English translation. A party relying on discovery transcripts or materials in support of or in opposition to a motion shall file a copy of such transcript or materials with the memorandum required by Rule 7.1 as well as a list of specific citations to the parts on which the party relies. Discovery transcripts and materials thus filed with the Court shall be returned to appropriate counsel after final disposition of the case.